



State of Idaho

DEPARTMENT OF WATER RESOURCES

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BRAD LITTLE
Governor

GARY SPACKMAN
Director

April 23, 2021

LORI AND MICHAEL BEER
C/O LANCE J SCHUSTER
BEARD ST CLAIR GAFFNEY PA
2105 CORONADO ST
IDAHO FALLS ID 83404
sent via email: lance@beardstclair.com

KOLLEEN DEGRAFF
LAVA RANCH PROPERTY OWNERS ASSN INC
PO BOX 131
POCATELLO ID 83246-0131
sent via email: kolleen.lavaranch@gmail.com

Re: Delivery Call Petition filed by Michael Beer and Lori Beer for Water Right No. 29-13740

Dear Water Users:

This letter confirms that on February 11, 2021, the Idaho Department of Water Resources ("Department") received a *Petition for Delivery Call* from Lori and Michael Beer ("the Beers") requesting administration of ground water use by the Lava Ranch Property Owners Association, Inc. ("Lava Ranch") to deliver water to the Beers' licensed water right no. 29-13740. The Beers also submitted information that suggests Lava Ranch's water diversion(s) may exceed the limits for exempt domestic use set forth in Idaho Code § 42-111 and may be an illegal diversion of water, requiring an enforcement action by the Department separate from the *Petition for Delivery Call*.

Although the Department considers the Beers' *Petition* to be a request to initiate a contested case, the Department has discretion in how to respond to the *Petition*. The Department may propose informal resolution of the matter. The Department may initiate a contested case to consider incorporating the area into an organized water district. Finally, the Department may initiate enforcement proceedings as described in Idaho Code § 42-1701B.

To assist in deciding which alternatives are appropriate, I have asked Department staff to investigate water rights and uses implicated by the Beers' *Petition*, and to recommend how to proceed. I have also asked Department staff in the Eastern Region to inspect the site in late April and during the summer to better understand the spatial relationship of the relevant diversions, and to quantify the amount of water diverted at the Lava Ranch well. The Department may require Lava Ranch, the Beers, or both, to install measurement devices to quantify the amount of water diverted. The first site visit will be completed in the next two weeks, with a possible follow-up visit in June. Department staff may contact you, if needed, to coordinate measurements.

Please cooperate with Department personnel to expedite their work. The Department also encourages the Beers and Lava Ranch to reach out to one another and evaluate possible settlement ideas.

Sincerely,

Gary Spackman
Director

c: Matt Groll-sent via email mattgroll@gmail.com
Peter Wells 216 W Whitman, Pocatello ID 83204
James Cefalo, Eastern Region Manager
Cherie Palmer. Enforcement Coordinator